

REMARKS

A. INTRODUCTION

Claims 1, 2, 10-12, 14, 15, 32-36, 38, 39 and 41-43 are pending and rejected.

Upon entry of this Amendment:

- Claims 1, 2, 10-12, 14, 15, 32-36, 38, 39 and 41-68 will be pending
- Claims 1, 10, 14, 32, and 41 – 43 will be amended
- Claims 44-68 will be added
- Claims 1, 10, 14, 32, and 41 – 43 are the only independent claims

B. REQUEST FOR CONTINUED EXAMINATION

This paper is being filed in response to an Office Action mailed September 19, 2007. A Request for Continued Examination (RCE), along with the appropriate fee, is being filed concurrently to ensure consideration of these remarks.

C. SECTION 103(A) REJECTIONS

Claims 1, 2, 10-12, 14, 15, and 32-36 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Palmer (U.S. Patent No. 5438355), and further in view of Pocock (U.S. Patent No. 5661787) and Throckmorton et al. (U.S. Patent No. 5818441).

Claim 42 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Palmer, Pocock, Throckmorton, and Field (U.S. Patent No. 4410911).

Claims 41 and 43 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Palmer, Pocock, Throckmorton, and Kurtz (The New York Times, April 14, 1991, “Technology: A Way to Hear Stock Quotes While Watching Cartoons”).

We respectfully traverse all of the Examiner’s Section 103(a) rejections.

Each of the rejected independent claims (Claims 1, 10, 14, 32, and 41 – 43) now recites a feature generally for in which *the supplemental audio information is synchronized with the television program such that the supplemental audio information does not conflict with an audio component of the television program when listened to simultaneously*.

Applicants note that the independent claims have been amended, where necessary, to remove the limitation that output, transmission, communication, or receiving of the requested supplemental information is via a speaker of a

telephone. Applicants have included such subject matter in various new dependent claims.

As discussed in the Specification, some described embodiments may include requested supplemental audio information that does not overlap dialogue of an audio track of a television program, or does not otherwise conflict with an audio component of the television program.

None of Palmer, Pocock, Throckmorton, Field, or Kurtz, alone or in combination, teaches or suggests such a feature, or the desirability of modifying the Palmer system to provide for such a feature.

The Examiner asserts that because Palmer teaches a broadcast television program comprising an audio component presented via TV, Pocock teaches providing requested audio information via telephone, and Throckmorton teaches synchronizing primary data with associated data, the combination of references teaches that requested audio information is synchronized with a television program such that the requested audio information does not conflict with an audio component of the television program “since one audio data is outputted to the telephone and the other is outputted to TV.” Applicants do not agree with this assessment of what the combination of cited references would have suggested to one of ordinary skill in the art.

The mere fact that two data sources may be output via two different, respective output sources does not teach or even suggest that the two data streams are not in conflict with one another. To the contrary, as discussed in Applicants’ Specification, prior phone services (e.g. chat rooms and conference calling systems) exist that allow callers to dial-in and listen to pre-recorded audio messages or even listen to live events in progress. When a caller uses a dial in service to listen to a sporting event, for example, which is being simultaneously broadcasted on TV, the radio audio track replaces the TV audio track. Thus, these services are not synchronized to the TV program’s audio track and are not designed to supplement the dialogue for the TV program.

In one example embodiment disclosed in the Specification, audio recordings of thoughts and comments of characters for a TV program may be recorded using actors from the TV program. The audio recordings are then edited and synchronized to the broadcast TV program. This process ensures that the additional thoughts and comments do not overlap the dialogue being spoken on the broadcast version audio track. These thoughts and comments are interspersed during the non-speaking periods and other appropriate periods in the TV program so that they can be listened to simultaneously with the TV program without conflict. The supplemental audio information is synchronized with the audio track

of the broadcast TV program - enhancing the audio track rather than merely replacing it.

Nothing in Throckmorton (or the other cited references) suggests any concern with whether or not associated data is presented in a manner that conflicts with primary data. Accordingly, neither Throckmorton, alone or in combination with the other references, suggests any function of synchronizing supplemental audio information such that the supplemental audio information does not conflict with the audio of a broadcast television program.

Further, Throckmorton suggests that the primary data and the associated data, although they may be received in the same datastream, generally are provided to a user at different times (see Column 3, lines 10-14; Column 4, lines 25-27; Column 6, lines 35-49, 60-63). When Throckmorton discusses "real-time triggers," it is only in the context of displaying data to a user—there is no hint that Throckmorton contemplates accommodating any associated audio data in real time (Column 6, lines 35-49, 60-63; Column 7, lines 22-30), or any concern about synchronizing audio such that broadcast audio and supplemental audio are not in conflict with one another when listened to simultaneously.

Palmer also teaches away from any such audio information. Palmer provides textual information, but has nothing to do with providing *supplemental audio information* (as the Examiner admits at the beginning of page 7 of the Office Action). In fact, the information of Palmer is limited to "program data" about particular TV programming. Such "program data"

"includes information regarding the particular program identified by the PIC code, such as purchase receipts, details regarding the products and services advertised in the commercial, or any other information an advertiser wishes to convey to the viewer via a fax transmission."

Clearly, since in Palmer such "program data" is transmitted via facsimile or email, it must be text. See, e.g., Palmer, col. 2, lines 8 - 17 and 52 - 55.

Likewise, no other reference of record suggests requesting or providing supplemental audio information. Field, for example, does not involve any request for supplemental audio information.

Applicants also respectfully note, with respect the Examiner's rejection of Claim 42, that Field is specifically limited to combining different audio signals within a frequency band for a television channel. To modify Field to split up this combined audio signal (as suggested by the Examiner) would directly contradict the primary objective and teaching of the Field system and destroy its principle of

operation. Accordingly, Field does not suggest the combination of subject matter proposed by the Examiner.

Accordingly, we respectfully submit that all of the independent claims (Claims 1, 10, 14, 32, and 41 – 43) are allowable over the cited references. We respectfully request reconsideration and withdrawal of the rejection of Claims 1, 2, 10-12, 14, 15, 32-36, and 41-43.

Applicants intend to pursue the subject matter originally and/or previously claimed prior to this Amendment, in one or more continuing applications.

D. ADDITIONAL COMMENTS

Our silence with respect to the Examiner's other various assertions not explicitly addressed in this paper, including assertions of what the cited reference(s) teach or suggest, the Examiner's interpretation of claimed subject matter or the Specification, or the propriety of any asserted combination(s) of teachings, is not to be understood as agreement with the Examiner. As the Examiner has not established an unrefutable *prima facie* case for rejecting any of the claims as pending, for at least the reasons stated in this paper, we need not address all of the Examiner's assertions at this time. Also, the absence of arguments for patentability other than those presented in this paper should not be construed as either a disclaimer of such arguments or as an indication that such arguments are not believed to be meritorious.

E. NEWLY-ADDED CLAIMS 44-68 ARE PATENTABLE OVER THE CITED REFERENCES

Newly-added Claims 44-68, each of which depends from a pending independent claim, are patentable over the cited references for at least the reasons stated above with respect to the independent claims.

Also, dependent Claims 53-59 include a feature generally directed to in which the synchronized requested supplemental audio information is provided during one or more gaps in the audio component of the broadcast television program. None of the references, alone or in combination, teaches or suggests any such synchronization.

For at least the reasons stated herein, we respectfully submit that new Claims 44-68 contain allowable subject matter.

F. PETITION FOR EXTENSION OF TIME TO RESPOND & AUTHORIZATION TO CHARGE APPROPRIATE FEES

Please grant a petition for any extension of time required to make this Response timely. Please also charge any other appropriate fees set forth in 37 C.F.R. §§ 1.16 – 1.18 for this paper and for any accompanying papers to:

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G. CONCLUSION

It is submitted that all of the claims are in condition for allowance. The Examiner's consideration is respectfully requested.

If the Examiner has any questions regarding this paper or the present application, the Examiner is cordially requested to contact Michael Downs at telephone number (203) 461-7292 or via electronic mail at mdowns@walkerdigital.com.

Respectfully submitted,

October 30, 2007

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